

<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

hit the ground, he felt his left knee “pop,” and experienced pain. Appellant stopped work on December 8, 2017. The employing establishment controverted the claim and indicated that the incident had not been investigated by a supervisor.

A December 9, 2017 x-ray of appellant’s left knee was interpreted by Dr. Francisco Menendez, a Board-certified diagnostic radiologist, as revealing minimal degenerative changes.

By development letter dated December 15, 2017, OWCP informed appellant that additional evidence was necessary to establish his claim. It advised him of the type of factual and medical evidence necessary and provided a factual questionnaire for his completion. OWCP afforded appellant 30 days to submit the necessary evidence.

OWCP subsequently received nurses’ notes dated December 11 and 21, 2017, and January 9, 2018. The December 11, 2017 notes indicated that appellant was “stepping down from cab and unclear of exactly what happened but felt sudden sharp, stabbing pain to his left knee.”

A January 4, 2018 magnetic resonance imaging (MRI) scan of the left knee, read by Dr. Ronald Cooper, a diagnostic radiologist, revealed a root tear of the posterior horn of the medial meniscus, extending to the posterior horn, a grade 2 chondromalacia of the medial compartment, and a mild medial collateral ligament sprain with acute findings.

By decision dated January 22, 2018, OWCP denied appellant’s claim, finding that the evidence submitted was insufficient to establish that the employment events occurred as described. It explained that it had not received a response from appellant regarding the information requested in the December 15, 2017 development letter.

On February 23, 2018 appellant requested reconsideration and submitted additional evidence.

In a January 30, 2018 statement, appellant explained that on December 8, 2017 he was at work when he stepped down from his truck. He advised that when his left foot hit the ground, it “felt as if my left knee exploded.” Appellant also noted that it was “not a sharp pain, but my whole knee hurt.” He confirmed that he called his boss and told him what happened, and that he would try to finish his shift. Appellant explained that he could walk straight, but could not twist his knee. He also noted that it seemed to be better after lunch, but when he went back to his truck and tried to get out, it happened again. Appellant explained that he called his supervisor and informed him that he could not continue with his work duties, and sought medical treatment.

In a December 8, 2017 emergency room record, Dr. Jeremy Kirtz, Board-certified in emergency medicine, noted that appellant was “stepping out of his car with his leg straight when he experienced a sudden onset of extreme pain in left knee.” He diagnosed acute internal derangement of the left knee.

In a December 28, 2017 report, Dr. Gregory Schwaid, Board-certified in general preventive medicine, noted the onset of symptoms two weeks prior at the location of the left knee, medial and lateral. He diagnosed a strain of the left knee, initial encounter.

In a February 2, 2018 report, Dr. Grant Garlick, a Board-certified orthopedic surgeon, noted that appellant presented with a chief complaint of left knee pain and swelling. He also indicated that appellant stated the problem was worsening. Dr. Garlick diagnosed left knee osteoarthritis, which was most likely a degenerative meniscus tear.

OWCP also received copies of previously submitted reports.

By decision dated June 20, 2018, OWCP affirmed the January 22, 2018 decision, as modified. It found that the factual evidence of record was sufficient to establish that the claimed work incident occurred as alleged. However, the claim remained denied as the medical evidence of record was insufficient to establish causal relationship between the diagnosed conditions and the accepted employment incident.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA has the burden of proof to establish the essential elements of his or her claim, including the fact that the individual is an employee of the United States within the meaning of FECA, that the claim was timely filed within the applicable time limitation period of FECA,<sup>2</sup> that an injury was sustained in the performance of duty as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.<sup>3</sup> These are the essential elements of each and every compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>4</sup> To determine if an employee sustained a traumatic injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components that must be considered in conjunction with one another. The first component is whether the employee actually experienced the employment incident that allegedly occurred.<sup>5</sup> The second component is whether the employment incident caused a personal injury.<sup>6</sup> An employee may establish that an incident occurred in the performance of duty as alleged, but fail to establish that the disability or specific condition for which compensation is being claimed is causally related to the injury.<sup>7</sup>

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<sup>2</sup> *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>3</sup> *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

<sup>4</sup> *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

<sup>5</sup> *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>6</sup> *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

<sup>7</sup> *Shirley A. Temple*, 48 ECAB 404, 407 (1997).

Causal relationship is a medical issue, and the medical evidence required to establish causal relationship is rationalized medical evidence.<sup>8</sup> The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the employee.<sup>9</sup> Neither the mere fact that a disease or condition manifests itself during a period of employment, nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.<sup>10</sup>

In any case where a preexisting condition involving the same part of the body is present and the issue of causal relationship therefore involves aggravation, acceleration, or precipitation, the physician must provide a rationalized medical opinion that differentiates between the effects of the work-related injury or disease and the preexisting condition.<sup>11</sup>

### ANALYSIS

The Board finds that appellant has not met his burden of proof to establish that his left knee condition was causally related to the accepted December 8, 2017 employment incident.

A December 8, 2017 emergency room record from Dr. Kirtz provided a history of the accepted employment incident and a diagnosis of acute internal derangement of the left knee. However, Dr. Kirtz did not offer an opinion regarding causal relationship between the employment incident and appellant's diagnosed left knee condition. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.<sup>12</sup> This report, therefore, is insufficient to establish appellant's claim.

Likewise, the December 28, 2017 report from Dr. Schwaid, which diagnosed a strain of left knee, also is deficient as there is no opinion regarding causal relationship.<sup>13</sup>

In a February 2, 2018 report, Dr. Garlick diagnosed left knee osteoarthritis and opined that it was most likely a degenerative meniscus tear. The Board finds that this report does not offer an opinion that the condition was work related and, in the contrary, supports a degenerative condition. Dr. Garlick's opinion is of limited probative value because he did not provide medical rationale, explaining how or why, physiologically, appellant's accepted employment incident caused or

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<sup>8</sup> *G.N.*, Docket No. 18-0403 (issued September 13, 2018); *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

<sup>9</sup> *K.V.*, Docket No. 18-0723 (issued November 9, 2018); *Leslie C. Moore*, 52 ECAB 132 (2000); *Gary L. Fowler*, 45 ECAB 365 (1994).

<sup>10</sup> *J.P.*, Docket No. 18-1165 (issued January 15, 2019).

<sup>11</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013).

<sup>12</sup> *See L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

<sup>13</sup> *Id.*

aggravated the diagnosed condition.<sup>14</sup> The Board has explained that a rationalized medical opinion is particularly important if the medical evidence documents a preexisting condition.<sup>15</sup>

OWCP received nurses' notes dated December 11 and 12, 2017 and January 9, 2018. However, nurses are not considered "physician[s]" as defined under FECA.<sup>16</sup> Consequently, their medical findings and/or opinions will not suffice for purposes of establishing entitlement to FECA benefits.<sup>17</sup>

OWCP also received a December 9, 2017 x-ray of the left knee and a January 4, 2018 MRI scan of the left knee. However, the Board has held that diagnostic reports lack probative value as they do not provide an opinion on causal relationship between appellant's employment duties and a diagnosed condition.<sup>18</sup>

Because the medical evidence of record does not establish how the December 8, 2017 employment incident caused or aggravated a left knee condition, appellant has not met his burden of proof to establish a traumatic injury.<sup>19</sup>

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

### **CONCLUSION**

The Board finds that appellant has not met his burden of proof to establish that his left knee condition was causally related to the accepted December 8, 2017 employment incident.

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<sup>14</sup> See *M.F.*, Docket No. 17-1973 (issued December 31, 2018).

<sup>15</sup> *Supra* note 9.

<sup>16</sup> 5 U.S.C. § 8101(2); 20 C.F.R. § 10.5(t).

<sup>17</sup> *M.B.*, Docket No. 17-1378 (issued December 17, 2018); *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006). Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3a(1) (January 2013).

<sup>18</sup> See *S.G.*, Docket No. 17-1054 (issued September 14, 2017).

<sup>19</sup> See *Linda I Sprague*, 48 ECAB 386, 389-90 (1997).

**ORDER**

**IT IS HEREBY ORDERED THAT** the June 20, 2018 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 26, 2019  
Washington, DC

Christopher J. Godfrey, Chief Judge  
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge  
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge  
Employees' Compensation Appeals Board